IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3462 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHAKARABHAI K PARMAR

Versus

STATE OF GUJARAT

Appearance:

MR NR SHAHANI for Petitioner

MS MANISHA LAVKUMAR, AGP for Respondent No. 1

RULE SERVED for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 10/04/2001

ORAL JUDGEMENT

The petitioner, who was serving in the office of the Registrar, Cooperative Societies at Gandhinagar, filed this petition for various reliefs.

2. The facts leading to filing of the petition are that the petitioner was assaulted by another peon in the same office i.e. B.S. Tivari on 14/11/1984. The petitioner had to undergo medical treatment due to the injuries suffered during the said assault. The petitioner's grievance was that the department had not taken any disciplinary action against Tivari and no reimbursement for the medical expenses was given to the petitioner and the department also did not treat the petitioner as on duty during the period when the petitioner was undergoing medical treatment for a period of almost 11 months from 14/11/1984 to 20/10/1985 and the department also did not release the petitioner's increments for the 3 years commencing from 1985-86. The petitioner also prayed for a direction to release the petitioner's conveyance allowance with effect from 14/11/1984.

3. In response to the notice issued by this Court, affidavit-in-reply has been filed on behalf of the respondent authorities submitting inter-alia that the petition raises disputed questions of fact. It is further contended that the petitioner might have had private quarrel with an office colleague but that was petitioner's personal matter with which the department was not concerned.

4. It is not necessary to refer to the various pleadings of the parties and disputed questions as Mr. Shalin Mehta, learned counsel for the petitioner points out that B.S. Tivari, who had assaulted the petitioner, expired in November 1999 and, therefore, the prayer for initiating disciplinary action against him would obviously not survive and the petitioner's prayer for direction to authorities to release petitioner's conveyance allowance with effect from 14/11/1984 has already been granted by this Court by interim order dated 27/4/2000 as interim relief. Mr. Shalin Mehta, learned counsel for the petitioner submits that as regards reliefs (B), (C) and (D) the petitioner may be permitted to make a representation to the authorities for sympathetic consideration by the respondent authorities.

5. Although the respondents have resisted the petition by contending that the dispute between the petitioner and Mr. Tivari was a private dispute, there is no reason why the respondent authorities cannot sympathetically consider the petitioner's representation for granting petitioner's leave which was due to his credit and also for release of increments and for

reimbursement of medical expenses if the same are permissible under the rules. Such prayers can always be considered irrespective of the question whether the dispute between the petitioner and Mr. Tivari was private or whether the dispute had taken place during the office hours.

6. In the result, the petition is disposed of in terms of the following directions :-

I. The respondent shall continue to pay the petitioner conveyance allowance as per the relevant rules and regulations.

II. The petitioner shall make a representation to the respondent authorities for the following reliefs:-

i. to treat the period from 14/11/1984 to 20/10/1985 as period spent on duty or to grant special leave to the petitioner,

ii. to release the petitioner's annual increments for the years 1985-86, 1986-87 and 1987-88,

iii. to reimburse the medical expenses for the petitioner's treatment and two orthopaedic operations which he had to undergo after 14/11/1984.

III. As and when such a representation is made, respondent no.2 shall decide the same as expeditiously as possible and in any case within two months from the date of receipt of the writ of this Court or a certified copy of the order, whichever is earlier.

7. Rule made absolute in the above terms only with no order as to costs.

[M.S. Shah, J.]

* Pansala.